

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Migden Analyst: Gloria McConnell Bill Number: AB 1752

Related Bills: See Legislative History Telephone: 845-4336 Amended Date: April 9, 2002

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Public Records/BOE Distribution Of Public Records

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Neutral.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY

This bill would require the Board of Equalization (BOE) to make additional disclosures of public records that pertain to an item, other than those records that pertain to an item involving named tax or fee payers, before taking final action on the item at its public meetings.

SUMMARY OF AMENDMENTS

These amendments make the records pertaining to items involving named tax or fee payers an exception to the requirement that the BOE provide additional disclosures of public records. These amendments remove the implementation and policy concerns raised in the previous analysis.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to ensure that the public receives information relating to decisions made at BOE meetings.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2003.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

5/31/02

POSITION

Neutral. On March 6, 2002, the Franchise Tax Board (FTB) voted 2-0 to take a neutral position on this bill, as introduced.

Summary of Suggested Amendments

Amendments may be forthcoming to resolve the technical considerations raised in this analysis.

LEGISLATIVE HISTORY

SB 445 (Burton; Stats. 2001, Ch. 670) added the provisions this bill proposes to amend. The SB 445 provisions apply only to FTB.

ANALYSIS

FEDERAL/STATE LAW

Under current law, any disclosable public records distributed to members of state bodies, which includes BOE or FTB, prior to or during an open public meeting must be made available for public inspection *at* the meeting. If someone prepares the writing other than staff of the state body or a member thereof, it must be made available for public inspection upon request *after* the meeting.

Effective January 1, 2002, SB 445 generally requires that certain disclosable public records pertaining to an item on an agenda for a meeting of the FTB that are distributed by either an individual FTB member or FTB staff to FTB members prior to or during a FTB meeting must be disseminated in three ways before FTB takes any final action on that item to which the writing pertains. The public records must be: (1) made available for public inspection at that meeting, (2) distributed to all persons requesting notice of FTB meetings, and (3) made available on the Internet.

THIS BILL

This bill generally would require that certain disclosable public records pertaining to an item on an agenda for a meeting of the BOE that are prepared and distributed by either a BOE member or BOE staff to BOE members prior to or during a BOE meeting must be disseminated in three ways before BOE takes any final action on that item to which the writing pertains. The public records must be: (1) made available for public inspection at the meeting, (2) distributed to all persons requesting copies of such writings, and (3) made available on the Internet. As amended, the dissemination requirements would not apply to writings pertaining to any item that involves a named tax or fee payer.

TECHNICAL CONSIDERATIONS

As indicated in FTB's previous analysis, the comparable BOE provisions in this bill could affect FTB's implementation of the current law as enacted by SB 445. In reviewing this bill from that perspective, there are two provisions that may need clarification. Staff is available to work with the author's staff to clarify these provisions.

1. Distribution of writings to the board members -- Under the proposed provisions applicable to the BOE (subdivision (d)), only those writings that are prepared by the BOE members or BOE staff must be distributed. However, under the existing law provisions applicable to the FTB (subdivision (c)), the writings required to be disseminated can be prepared by anyone, including FTB members, FTB staff, or any other party. It is unclear whether this inconsistency between the two provisions is intentional.
2. Disseminating the writings to certain persons -- These requirements are found in subdivision (c)(2), which applies to FTB, and subdivision (d)(2), which applies to BOE, but, the requirements are different for each body. Subdivision (c) requires FTB to send a copy of the writings to all persons who request notice of the meeting, yet subdivision (d) requires BOE to send a copy of the writings only to those persons requesting copies of such writings. It appears it would be more efficient if FTB's requirements were comparable to those proposed for the BOE, so that FTB would disseminate the information to only those actually requesting copies of such writings. For example, there are instances where persons requesting notice of a meeting would not be specifically interested in writings relating to specific items on which the board is taking final action. Sending copies of writings to these persons would be counterproductive.

LEGISLATIVE STAFF CONTACT

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